



September 14, 2022

VIA EMAIL ONLY: landuse@warner.nh.us

Ms. Barbara Marty, Chair
Warner Zoning Board of Adjustment
5 East Main Street
P.O. Box 265
Warner, NH 03278

**RE: Estate of Carol M. Pletcher
443 Kearsarge Mountain Rd., Warner, NH**

Dear Chairwoman Marty:

I represent Jennifer E. Pletcher (“Jenn”) in her capacity as Executrix of the will of her late mother, Carol M. Pletcher (“Carol”), and in Jenn’s individual capacity as the principal beneficiary of Carol’s will.

As I understand it, Jenn has applied for a variance with respect to the above-referenced property (the “Premises”). I also understand that the Warner Zoning Board of Adjustment (the “Board”) has raised a concern about Jenn’s authority to apply for the variance because record title to the Premises stands in the name of Carol. I am writing in support of Jenn’s application and to address the Board’s concern.

Let me first very briefly review the nature of record title when a parcel of real estate passes through a decedent’s estate. When a person dies owning a parcel of real estate, a deed will appear in the appropriate registry of deeds showing title in the name of that deceased person. Ownership of that parcel will pass to the deceased person’s heirs through the process of administering that person’s estate in the Probate Court (now the Circuit Court – Probate Division). At the conclusion of the probate process, the executor of the will (or administrator of an intestate estate) simply sends a formal notice to the city or town in which the property is located that title has passed to the heir or heirs who inherited the parcel. No new deed is recorded to convey the parcel to the heirs. The resulting chain of title is simply: deed standing in the name of the deceased individual, probate records reflecting probate of that individual’s estate, and the notice by the estate representative that

the probate is concluded and that the relevant heirs now hold title. The next deed in the registry of deeds would not appear until the heirs make some conveyance of their interest in the parcel.

Let me next explain how this applies to the Premises:

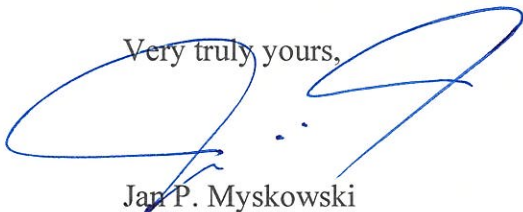
- Carol died on January 12th of this year. Jenn petitioned to be appointed as the Executrix of Carol's estate and was appointed by the Circuit Court Probate Division on February 10th of this year (a copy of her Certificate of Appointment is enclosed).
- Carol died holding title to the Premises, and the Premises are therefor part of Carol's probate estate.
- Carol's will provides for the Premises to pass to Jenn as the sole remainder beneficiary of Carol's will.
- Carol's estate remains open, so no notice to the town of Warner relative to Jenn's inheritance of the Premises has yet occurred.

When an executor wishes to transact business with respect to a parcel of real estate that comprises an asset of an open estate, the executor must have one of two things (1) the consent of the heirs who are slated to inherit the parcel, or (2) license from the probate court. So, for example, if an executor wants to sell a parcel of real estate to pay debts of the estate, the executor either needs the consent of the heirs or license from the probate court.

In the present case, Jenn is both the Executrix of Carol's estate and the sole heir with respect to the Premises. As a result, Jenn has authority to transact any business with respect to the Premises because, as Executrix, she needs only the consent of herself as the sole heir. Jenn would have the authority to sell the Premises, and it is my opinion that Jenn has authority to do anything short of selling, including the authority to apply for a zoning variance with respect to the Premises.

I hope that this letter is helpful to the Board. Please feel free to pose any questions that may clear up additional concerns relative to Jenn's application.

Very truly yours,



Jan P. Myskowski

JPM
Enclosure

cc: Jennifer E. Pletcher (via email only)